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**Agriculture & Natural Resources  
Committee**

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**HB 1178**

**Brief Description:** Regarding enforcement of environmental permits.

**Sponsors:** Representatives Upthegrove, Nelson, Rolfes and Simpson.

**Brief Summary of Bill**

- Permits the Fish and Wildlife Commission to identify certain hydraulic projects that are exempt from criminal prosecution and instead creates natural resources infractions.
- Permits the Department of Fish and Wildlife to issue orders for unlawful hydraulic projects that require the person conducting the project to stop working on the project or to restore damage done by the project.

**Hearing Date:** 1/23/09

**Staff:** Jason Callahan (786-7117)

**Background:**

Hydraulic Project Approvals

Before beginning a construction project, a person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. HPAs are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

The WDFW is statutorily authorized to issue programmatic HPAs for small scale mining and prospecting, as well as activities or projects conducted solely for the removal or control of certain aquatic weeds. The programmatic approval is in lieu of an applicant obtaining an

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individual HPA. Under the programmatic approval process, the WDFW publishes a pamphlet that states the rules for that activity.

A person who unlawfully undertakes a project in violation of the HPA requirements may be prosecuted for a gross misdemeanor. Prosecution is available if a person conducts a project without an HPA, or if a person violates the conditions the operative HPA.

### Natural Resource Infractions

A natural resource infraction is a civil penalty available for violations of certain statutes relating to natural resources. The monetary penalties for a natural resource infraction are set by the Washington Supreme Court, with a maximum penalty of \$500.

### **Summary of Bill:**

#### Civil Enforcement

The Fish and Wildlife Commission (Commission) is provided with the discretionary authority to identify certain classes of HPA violations that are exempt from criminal prosecution. Those violations identified by the Commission are subject to enforcement as natural resource infractions.

#### WDFW Orders

The WDFW has the authority to issue three different orders to individuals violating HPA requirements. The WDFW can issue an order to suspend work on any project being conducted in violation of the HPA requirements. An order also can be issued compelling the restoration any site that was damaged due to a project conducted in violation of the HPA requirements. Alternatively, the WDFW can order the project sponsor to stop working and to restore the site. The WDFW cannot issue a stop work order for hydraulic projects that are subject to stop work orders under the Forest Practices Act.

A person receiving an order from the WDFW has 20 days to appeal the order. The WDFW may extend the 20-day appeal timeline through rule.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.